

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

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KARINA DUBINSKAYA,

Plaintiff,

-against-

**ORDER  
CV-14-2975 (ARR)**

ALLIED INTERSTATE LLC,

Defendant.

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Gold, S., U.S. Magistrate Judge:

Plaintiff brings this case against defendant, a debt collector, as a putative class action pursuant to the Fair Debt Collection Practices Act. Amended Complaint (“Am. Compl.”), Docket Entry 9. Plaintiff alleges, among other things, that defendant sent a collection letter to her stating that “the creditor continues to assess interest on the debt” when in fact the creditor was not assessing interest. Am. Compl. ¶¶ 25-26.

Discovery has revealed an unusual and disturbing set of facts with respect to a particular telephone call. It appears the call was placed to plaintiff’s telephone number and made in an effort to collect the debt at issue in this case. The telephone call was recorded, and the recording was played in open court and transcribed during a proceeding I held on March 16, 2015. After a voice that sounds male answers, the caller asks to speak to plaintiff, referring to her by her full name, and states that the call is in reference to plaintiff’s PayPal account. The male answering the call apparently recognizes plaintiff’s name, because he responds that he is her husband and then states, repeatedly, that “the problem is that she hung herself” about a week ago. Tr. of Mar. 16, 2015 (“Tr.”), Docket Entry 48, at 5.

Plaintiff, who is very much alive, appeared at the March 16 hearing. Plaintiff claimed at the hearing that she does not recognize the male voice that answered her phone and cannot

explain how someone she does not know came to answer her phone, much less claim to be her husband and report her suicide by hanging. Tr. at 8-9.

Plaintiff had made motions to compel class discovery that were pending at the time of the hearing on March 16, 2015. After listening to the recorded call and plaintiff's contention that she did not know the voice of the man who answered her phone, claimed to be her husband, and reported her dead, I concluded that these remarkable facts raised serious questions about whether plaintiff could adequately represent a class. Accordingly, I denied plaintiff's motions to compel to the extent they sought class-related discovery and ordered that defendant could conduct plaintiff's deposition and decide whether to move to dismiss the class allegations in plaintiff's complaint before producing class-related discovery. Tr. 9; Minute Entry for Hearing Held on Mar. 16, 2015, Docket Entry 47.<sup>1</sup>

By letter dated March 26, 2015 ("Mot."), Docket Entry 49, plaintiff moves for reconsideration of the rulings I made on March 16, 2015. Plaintiff has not, however, pointed out any matters or controlling decisions I overlooked. *See* Local Civil Rule 6.3. First, plaintiff seems to misunderstand my ruling as precluding discovery relevant to her individual claims. Mot. at 4. The minute entry I entered on March 19, however, clearly states that only class-related discovery is stayed. Second, much of plaintiff's letter motion argues that the statutory violations alleged here are strict liability offenses. A serious question about whether plaintiff may qualify as a suitable class representative remains, however, whether or not that is so. *See, e.g., Savino v. Computer Credit, Inc.*, 164 F.3d 81, 87 (2d Cir. 1998) (holding that, "[t]o judge

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<sup>1</sup> Plaintiff moved to stay her deposition while her motion for reconsideration was pending. Docket Entry 55. I addressed plaintiff's motion during a telephone conference held on April 2, 2015, granting her motion in part and denying it in part.

the adequacy of representation, courts may consider the honesty and trustworthiness of the named plaintiff”). Accordingly, plaintiff’s motion for reconsideration is denied.

**SO ORDERED.**

/s/  
**STEVEN M. GOLD**  
**U. S. MAGISTRATE JUDGE**

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